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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DUKE THOMAS NGUYEN,

Case No. 2:18-cv-01717-RFB-PAL

Plaintiff,

ORDER

v.

CLARK COUNTY DISTRICT  
ATTORNEY'S OFFICE, et al.,

Defendant.

This matter is before the court on plaintiff's proposed Discovery Plan and Scheduling Order (ECF No. 29). At a hearing conducted January 16, 2019 the district judge entered an order giving plaintiff 30 days to file an amended complaint and requiring a proposed discovery plan and scheduling order to be submitted 2 weeks after filing the amended complaint. See, Minutes of Proceedings, ECF No 18. This is a prisoner civil rights action. The amended complaint asserts 42 U.S.C Section 1983 claims for 1) cruel and unusual punishment under the Eighth Amendment; 2) negligent hiring, training and supervision; and 3) Monell claims arising out of the State of Nevada's contract with a private company to transport prisoners on behalf of the Nevada Department of Corrections. Plaintiff is represented by counsel. No proof of service on any named defendant has been filed and no defendant has filed an answer or made an appearance.

LR 26-1 addresses the procedures and timing of filing a proposed stipulated discovery plan and scheduling order. It requires the plaintiff to initiate the scheduling of a Fed. R. Civ. P 26(f) conference "within 30 days after the first defendant answers or otherwise appears." LR 26-1(a). The parties are required to submit a proposed stipulated discovery plan and scheduling order 14 days after the Rule 26(f) conference. LR 26-1(b) addresses the form of the order, applicable deadlines and the content of the proposed order. Plaintiff's proposed discovery plan and scheduling order indicates the complaint and amended complaint are currently out for service. The


1 proposed plan was unilaterally filed in compliance with Judge Boulware's order but is premature  
2 and incomplete because no defendant appeared or participated in the Rule 26(f) conference,

3 Accordingly,

4 **IT IS ORDERED** that:

- 5 1. The proposed Discovery Plan and Scheduling Order (ECF No. 29) is not approved.  
6 2. Plaintiff shall comply with the requirements of LR 26-1 after the first defendant  
7 answers otherwise appears.

8 DATED this 11th day of March 2019.

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11 PEGGY A. LEEN  
12 UNITED STATES MAGISTRATE JUDGE  
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